



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit: 2817
Examiner: Pascal, Robert J.
Applicant: Tobar et al.
Serial No: 09/914,142
Filing Date: December 21, 2000
For: MULTI-LAYER MICROWAVE RESONATOR

#8/Election
marsha
3/5/03

PROVISIONAL ELECTION AND RESPONSE TO RESTRICTION

Assistant Commissioner for Patents
Washington, DC 20231

Dear Sir:

In response to the Office Action mailed November 15, 2002, Applicant hereby responds to the requirement set forth by the Examiner to make an election as to which species is to be prosecuted. Applicant submits herewith the fees sufficient to extend the response time by two months, \$205, allowing this response to be filed by Tuesday, February 18, 2003, the day after Presidents Day, Monday, February 17, 2003.

Applicant respectfully traverses the restriction requirement. The claims do not differentiate between the various embodiments shown in the Figures.

Applicant will, however, provisionally elect to continue prosecution for the species the Examiner has identified as Group I, for Figures 1a and 1b. For Group I, Applicant will select claims 1 through 4, 7, 8, and 14 through 18.

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Applicant strongly disagrees with the Examiner's position that the restriction is required based on PCT Rules 13.1 and 13.2. With regard to PCT Rule 13.1, the invention is defined in claim 1. It is the generic invention. All claims depending therefrom set forth additional features added to the embodiment set forth in claim 1. Just because the different figures identify different features or additional elements does not imply that there is more than one generic invention. Please note that, in the groupings presented by the Examiner, Species I, II, V and VI are all linked via the common technical feature of the vacuum space. This would included claims 1 through 4, 7 through 12 and 14 through 18, and Figures 1a, 1b, 2a-2c, 5a, 5b, 6a and 6b.

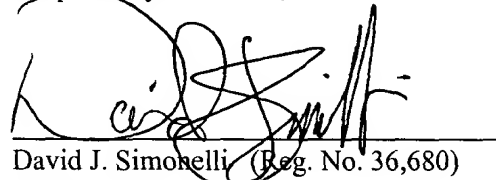
Further, Applicant does not understand the basis for the examiner's secondary assertion under PCT Rule 13.2, given that this rule relates to the ability of having various independent claims. In the above-captioned patent application, there is only one independent claim.

It is respectfully submitted that this patent application is in condition for allowance, including claim 1 and all claims depending therefrom, which allowance is respectfully solicited. If the Examiner has any questions regarding this amendment or patent application, the Examiner is invited to contact the undersigned.

The Commissioner is hereby authorized to charge any overpayment or underpayment of the above fee associated with this Communication to Deposit Account No. 50-1759. A duplicate copy of this form is attached.

Respectfully submitted,

By:



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Date:

17 Feb 03

Attorney Docket No: 19365-085395